REMARKS

The Applicant respectfully requests reconsideration and allowance of claims 1 and 3-22, and consideration and allowance of new claims 24 and 25, in view of the above amendments and the arguments set forth below.

The Applicant appreciates the indication in the first Office Action that independent claim 21 would be allowable, subject to resolution of the nonstatutory double patenting rejection. In light of the enclosed terminal disclaimers, the Applicant believes claim 21 and its new dependent claims 24 and 25 are in condition for allowance.

I. STATUS OF THE CLAIMS

The present application was originally filed with claims 1 through 23. Claims 2 and 23 are canceled above. Independent claims 1, 12, 13, 14, and 22 are amended above to require that the added water or moisture and the ammonium hydroxide solution are distributed throughout the resulting material. Claims 15-20 are amended to correct typographical errors, while claims 3 and 5-10 are amended for consistency with the amended independent claim 1. The amendments to claims 3, 5-10, and 15-20 are not intended to directly add further limitations to those claims. New claims 24 and 25 are added depending from claim 21. The above amendments leave claims 1, 3-22, 24, and 25 pending in the case.

II. THE CLAIM OBJECTIONS

The Applicant appreciates the Examiner's comments regarding the error in the preamble of claims depending from claim 14. Claims 15-20 have been corrected to refer to a meat product.

It is believed that these corrections obviate the objection to claims 15-20. The Applicant also appreciates the Examiner's comments regarding the typographical error in claims 6, 7, and 13. Claim 6, 7, and 13 have been amended to correctly refer to "ammonium" hydroxide.

III. THE CLAIMS ARE NOT OBVIOUS OVER THE 795 PATENT IN VIEW OF NAKAYAMA

Claims 1-13, 22, and 23 were rejected under 35 U.S.C. §103(a) as being obvious over U.S. Patent No. 5,871,795 to Roth (the "795 patent"), in view of the Japanese publication by Nakayama, et al. (the "Nakayama reference" or "Nakayama"). The Applicant traverses these rejections on the ground that the proposed combination does not teach or suggest all of the elements required in the rejected claims.

Independent claims 1, 12, 13, and 22 have been amended above to require that the added water and ammonium hydroxide solution is distributed throughout the comminuted meat product. The Applicant submits that the combination of the 795 patent and the Nakayama reference does not teach or suggest a process in which added moisture and an ammonium hydroxide solution is distributed throughout a comminuted meat product.

The 795 patent was cited for its disclosure that ammonia gas may be added to comminuted meat. However, the 795 patent does not teach or suggest adding moisture to the comminuted meat along with the ammonia gas. The Nakayama reference was cited for its disclosure of treating meat with ammonium hydroxide solution.

It is first noted that the 795 patent specifically teaches applying ammonia gas or a pH increasing liquid in a carrier gas to a comminuted meat product under certain conditions to increase the pH of the meat product in a short application period. The pH increase using

ammonia gas was thought to occur as ammonia gas was absorbed in moisture in the meat to produce ammonium hydroxide (Col. 5, lines 37-53). As discussed beginning at the bottom of Col. 4 through Col. 5 of the 795 patent, the short application period was used to overcome adverse effects associated with extended exposure to the ammonia. Furthermore, the 795 patent discloses using a gas in the treatment to apply a pressure effect in addition to the pH increase.

It is noted that the Nakayama reference applies ammonia gas and/or ammonium hydroxide solution to eliminate undesirable odors from raw fowl meat. Although the Nakayama reference does disclose that the treatment may be applied to large cuts of raw fowl meat and ground fowl meat (page 3, third full paragraph of English translation), the ammonia gas and/or ammonium hydroxide solution is applied only to the surface of the fowl meat being treated. In particular, the latter half of page 3 of the English translation indicates that ammonia gas may be applied by placing the meat in an ammonia gas atmosphere, and further indicates that ammonium hydroxide solution may be sprayed onto the fowl meat or the fowl meat may be immersed in the solution. Nothing in the Nakayama reference teaches or suggests that an ammonium hydroxide solution may be mixed with a comminuted meat product so that the solution is distributed throughout the meat product. In fact, such a distribution throughout the meat product would appear to be inconsistent with the purpose of the treatment in Nakayama to eliminate odors which emanate from the surface of the meat product.

Because the Nakayama reference suggests only applying ammonium hydroxide solution to the surface of fowl meat to eliminate undesirable fowl meat odors, and because the 795 patent teaches applying a pH increasing material for a short period of time, the Applicant submits that it would not have been obvious to substitute ammonium hydroxide solution for ammonia gas in the treatment disclosed in the 795 patent. That is, distributing ammonium hydroxide solution throughout a fowl meat product is not taught or suggested by the Nakayama reference, and distributing an ammonium hydroxide solution throughout a comminuted meat product would

defeat the goal of a short treatment time taught by the 795 patent. Stated another way, the short treatment material contact time desired in the 795 patent would suggest against producing an ammonium hydroxide solution in the meat product and distributing the solution throughout the comminuted meat.

For all of these reasons, the Applicant believes that the present claims are not obvious in view of the 795 patent and the Nakayama reference and are entitled to allowance.

IV. CLAIMS 14-20 ARE ALLOWABLE OVER THE 795 PATENT

Claims 14-20 were rejected as either being anticipated by or obvious in view of the 795 patent. The Applicant believes the claims as amended are not anticipated by nor obvious in view of the 795 patent because the 795 patent does not teach or suggest a moisture enhanced meat product as required in claim 14 and its dependent claims, claims 15-20.

As discussed above, the 795 patent teaches applying ammonia gas or a pH increasing liquid in a carrier gas for a short duration. The 795 patent does not suggest producing a moisture enhanced meat product having an ammonium hydroxide solution distributed throughout the product. The 795 patent certainly does not teach or suggest setting the treated product by adding heat and/or pressure to the product. Since claim 14 requires adding moisture to a meat product and producing an ammonium hydroxide solution throughout the meat product, and further requires setting the moisture enhanced meat product by applying heat and/or pressure, the 795 patent cannot anticipate claim 14 or make the claim obvious.

For these reasons the Applicant submits that claim 14 is not anticipated by or obvious in view of the 795 patent and is entitled to allowance together with its dependent claims, claims 15 through 20.

V. THE NONSTATUTORY DOUBLE PATENTING REJECTIONS

Enclosed with this response is a terminal disclaimer relating to U.S. patent No. 6,406,728 and to U.S. patent application No. 09/965,337. The Applicant believes that this terminal disclaimer overcomes the nonstatutory double patenting rejection over U.S. patent No. 6,406,728 and the provisional nonstatutory double patenting rejection over U.S. patent application No. 09/965,337.

VI. CONCLUSION

For all of the above reasons, the Applicant respectfully requests reconsideration and allowance of claims 1 and 3-22, and consideration and allowance of new claims 24 and 25. If the Examiner should feel that any issue remains as to the allowability of these claims, or that a conference might expedite allowance of the claims, he is asked to telephone the Applicant's attorney Russell D. Culbertson at the number listed below.

Respectfully submitted,

SHAFFER & CULBERTSON, L.L.P.

Dated: March 8, 2004

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CERTIFICATE OF FACSIMILE

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, (Fax No. 703-872-9306) on March 8, 2004.

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